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Wells Fargo Advisors, LLC

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

WELLS FARGO ADVISORS, LLC, a  
limited liability company,

Petitioner,

v.

KENNETH C. SHAFFER, an individual,  
Respondent.

KENNETH C. SHAFFER, an individual,  
Cross-Petitioner,

v.

WELLS FARGO ADVISORS, LLC, a  
limited liability company, WELLS  
FARGO INVESTMENTS, LLC,  
Cross-Respondents.

**Case No. CV 11-1500 SC**

**OPPOSITION OF WELLS FARGO  
ADVISORS, LLC TO MOTION TO  
CONFIRM ARBITRATION AWARD  
AND ENTER JUDGMENT THEREON**

**DATE: June 10, 2011  
TIME: 10:00 A.M.  
COURTROOM: 1, 17th Floor**

Petitioner and cross-respondent Wells Fargo Advisors, LLC (“WFA”) submits this opposition to the motion of Kenneth C. Shaffer (“Shaffer”) to confirm arbitration award and enter judgment thereon.

## **MEMORANDUM OF POINTS AND AUTHORITIES**

### **I. INTRODUCTION**

On April 6, 2011, WFA filed a motion to vacate the arbitration award issued in *In the Matter of the Arbitration Between Wells Fargo Investments, LLC, Claimant/Counter-Respondent, and Kenneth C. Shaffer, Respondent/Counter-Claimant*, FINRA Case No. 10-00773. In response, Shaffer has filed a motion to confirm that arbitration award and to have judgment entered thereon. Pursuant to section 9 of the Title 9 of the United States Code, Shaffer's motion to confirm must be denied if the arbitration award is vacated pursuant to WFA's motion.

### **II. LEGAL ARGUMENT**

#### **A. The Applicable Legal Standard For Confirming The Arbitration Award**

Under the Federal Arbitration Act ("FAA"), a court may confirm an arbitration award "unless the award is vacated . . . as prescribed in sections 10 and 11 of this title." 9 U.S.C. § 9. WFA's motion to vacate the arbitration award seeks an order vacating the award under section 10(a)(4) of Title 9 of the United States Code.

As fully set forth in its motion to vacate the arbitration award, WFA contends that the arbitration award must be vacated because the arbitrators' award exhibits a manifest disregard of the law by the arbitrators.

#### **B. Briefing The Issue Of Attorney Fees Is Premature**

Shaffer devotes a section of his motion to making arguments about his purported entitlement to attorney fees. The issue of attorney fees is premature in light of the fact that the court has not ruled on either WFA's motion to vacate the arbitration award or Shaffer's motion to confirm the arbitration award. *See* Fed. R. Civ. P. 54(d)(2).

### III. CONCLUSION

For the foregoing reasons, and for the reasons set forth in WFA's motion to vacate arbitration award, it is respectfully requested that the court deny Shaffer's motion to confirm the arbitration award issued in *In the Matter of the Arbitration Between Wells Fargo Investments, LLC, Claimant/Counter-Respondent, and Kenneth C. Shaffer, Respondent/Counter-Claimant*, FINRA Case No. 10-00773.

Dated: May 19, 2011

Fredrick A. Rafeedie  
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By: / s / Fredrick A. Rafeedie  
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